

# **FARNET**

*The Federation of American Research Networks*

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**May 6, 1996**

**Office of the Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554**

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**RE: RM No. 8775**

**ACTA petition relating to "Internet Phone" Software and Hardware**

**Honorable Members of the Commission:**

I am writing on behalf of the Federation of American Research Networks (FARNET) urging the Commission to deny the petition of the America's Carriers Telecommunication Association (ACTA).

FARNET is a not-for-profit organization formed in 1987 to facilitate cooperation and discussion among educational institutions, corporations and the government in the building of the Internet, primarily through the NSFNet program. FARNET members consist of both not-for-profit and for-profit organizations, including Internet Service Providers, Network Service Providers, Interexchange Companies, Regional Bell Operating Companies, Universities and Supercomputer Centers. The mission of FARNET is to support the research and education community's internetworking needs. Recently, FARNET has facilitated discussions regarding the growing integrated, high-bandwidth digital communications needs of research and educational institutions in the United States.

The Internet is essentially a network of networks and computers which have agreed to use a common protocol with which to communicate. These protocols can operate over a number of media, including copper wire, fiber optic cable and electromagnetic spectrum. Furthermore, the Internet's protocols operate independently of whether ASCII text,

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voice, video, graphical or other data is being carried within its packet-based mode of transmission. Thus, the Internet is a multi-media, transmission-technology independent form of communication.

The ACTA petition would force the FCC to single out for regulation one particular type of communication that is now taking place over the Internet. Besides being administratively burdensome, and perhaps even technically impossible, such an action would severely prohibit the further development of the Internet as a multi-media communications tool.

***Regulation should not be used to inhibit the further development of technology.*** It is in the public interest to allow the integration of voice, video, graphics and text applications. Cornell University, a member of FARNET, has developed the video conferencing software "CU See-Me" which is distributed freely over the Internet. CU See-Me (<http://cu-seeme.cornell.edu>) has seen wide use in the K-12 community. Since 1992, the Global Schoolhouse Project (<http://www.gsn.org>) has worked with schools to set up live videoconferences with scientists, authors, government, business, and community leaders.

While CU See-Me is primarily known as a *video* conferencing tool, it allows users to do real-time voice communication as well (it also allows for text communication). The ACTA petition's proposals could create a situation where the voice part of CU See-Me were regulated, but not the video part. Such a finding would severely inhibit the further development of this important technology.

***The commission has a clear mandate from the telecommunications act of 1996 to make pro-competitive, deregulatory decisions in the public interest.*** The Congress set out principles in the Telecommunications Act of 1996 calling for, "a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private deployment of advanced telecommunications and information technologies of all Americans."<sup>1</sup>

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<sup>1</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996).

Furthermore, the Commission has, through its current rulemaking on Universal Service<sup>2</sup> pointed out that,

“Modern two-way, interactive capabilities will not only enable users at schools, libraries and rural health care facilities to access information, but also give students the ability to participate in educational activities at other schools, including universities; allow students, teachers, librarians and rural health care providers to consult with colleagues or experts at other institutions...”<sup>3</sup>

Finally, Title IV of the Telecommunications Act of 1996 requires the Commission to forbear from applying any regulation if 1) enforcement is not necessary to ensure that charges are just and reasonable or not unjustly or unreasonably discriminatory, 2) enforcement is not necessary to protect consumers, and 3) forbearance from such regulation is in the public interest.<sup>4</sup>

FARNET feels that denial of the ACTA petition's request for the Commission to initiate a rulemaking with the aim of regulating “Internet Phone” type applications is justified in keeping with the above conditions. ACTA asserts that real-time voice over the Internet is “free” to the consumer. While this is not true, the opposite is not the case either. The highly competitive Internet access market is unlikely to tolerate “unreasonable” or “unjust” charges. Furthermore, consumers are not being harmed by the opportunity to explore an emerging technology, especially if it offers a price-competitive alternative to long-distance telephony. Finally, as described above, it is in the public interest to allow our nation's school children to communicate in real-time with scientists, business people, government leaders and other educators in ways that school budgets have never been able to allow to take place before.

***The integration of voice, data and video technologies is crucial to the future of education and research in the u.s.***

The ACTA petition would have far-reaching implications for the future

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<sup>2</sup> CC Docket No. 96-45, FCC 96-93, adopted March 8, 1996.

<sup>3</sup> *Id.* para. 2, Section IV. A.

<sup>4</sup> 1996 Act, (to be codified at 47 USC 160 (a))

of education in this country. The integration of voice, data and video is expected to be one of the most important developments for higher education and research institutions.

FARNET members are, along with others in the higher education community, developing plans to accelerate and continue this integration of media, in order to 1) cut the ever-expanding costs of maintaining separate campus infrastructures for telephony and data communications, and 2) to realize the potential of distance learning and other collaborative applications needed to expand the boundaries of traditional higher education institutions.<sup>5</sup>

Lastly, the specific arguments of the ACTA petition are ill-formed at best. The assertion by petitioners that the software developers it names as defendants should be considered under Commission rules as "telecommunications carriers" for the purpose of regulation is quite a stretch of the relevant definition. Secondly, defendants are developers of software for customer premises equipment, which has been specifically deregulated by the Commission in previous proceedings.

Petitioners also assert that the Internet's infrastructure is somehow being damaged by the use of such software and specifically that it is "detrimental to the health of the nation's telecommunications industry and the maintenance of the nation's telecommunications infrastructure." Primarily, they argue, telecommunications infrastructure will fail to be properly maintained, because defendants are giving away the interexchange voice service for "free or next to free." This is factually incorrect. At present, the end user may find, in a highly competitive market, that flat rate monthly charges dominate the Internet access business. The Internet service providers themselves pay owners of the underlying infrastructure based on average bandwidth utilization.

Finally, it is not in the public interest to preserve a small niche market for a very few resellers to the detriment of a technology that brings

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<sup>5</sup> FARNET can provide the Commission with its publication (co-sponsored with EDUCOM, et al.), *Higher Education and the NII: From Vision to Reality*, the text of the Monterey Conference Proceedings of September 1995. The proceedings document the needs of higher education, especially in the integration of voice, video and data communications and the plans to make that integration happen.

the promise of greater competition, lower prices and greater technological innovation to the whole of the telecommunications industry. The Commission should deny ACTA's petition. The Commission should continue to be foresighted in its view of the future of telecommunications, especially for the educational institutions in this country.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, reading "Jim Williams", followed by a long horizontal flourish line.

Jim Williams  
Executive Director